

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:10CR73-RJC**

UNITED STATES OF AMERICA)
)
 v.)
)
 GABRIEL CISNEROS,)
)
 Defendant.)
 _____)

ORDER

THIS MATTER is before the Court on defense counsel, Jacob Sussman’s “Motion for Inquiry Into Status of Counsel” (document #47) filed February 24, 2011. The Court conducted a hearing on this matter on March 16, 2011.

Having fully considered the arguments, the record, and the applicable authority, the Court finds that there is no basis for removal of counsel for Defendant, as discussed below.

At the hearing, defense counsel stated that he was appointed counsel for Defendant on May 20, 2010. Defendant pled guilty on July 8, 2010 and is awaiting sentencing by Chief Judge Robert J. Conrad, Jr. Defense counsel explained that he had not had any problems with Defendant until late January 2011, when Defendant began filing *pro se* motions with this Court as well as appeals to the Fourth Circuit raising frivolous jurisdictional issues. Based on these *pro se* filings, defense counsel filed the current Motion.

Defendant told the Court that defense counsel had not been “legally” appointed and refused to answer the Court’s questions regarding whether he wished to be represented by Mr. Sussman, have new counsel, or proceed *pro se*. The Court clarified the attorney-client relationship and explained to Defendant that there are certain decisions that must be made by him and that there are other decisions that must be made by counsel such as identifying legal issues, deciding what motions

to file, and what arguments to make to the Court. The Court warned Defendant that since he is represented by counsel, the Court will not consider any *pro se* filings and if Defendant continues to file any motions the Court will strike them from the record.

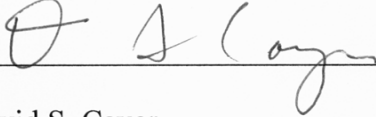
The Court then questioned defense counsel about the current state of his relationship with Defendant. Defense counsel stated that he could communicate with Defendant and that the relationship had not deteriorated such that he could not effectively represent him in this case.

Based on the above facts, the Court does not find that there is a sufficient basis for removal of counsel for Defendant.

The Clerk is directed to send copies of this Order to counsel for the parties; and to the Honorable Robert J. Conrad, Jr.

SO ORDERED.

Signed: March 16, 2011



David S. Cayer
United States Magistrate Judge

